

JS-6

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
CIVIL MINUTES—GENERAL

Case No. **EDCV 23-0774 JGB (SPx)** Date **October 18, 2023**

Title ***Marlene R. Finander v. Moreno Valley Unified District, et al.***

Present: The Honorable **JESUS G. BERNAL, UNITED STATES DISTRICT JUDGE**

**MAYNOR GALVEZ**

Deputy Clerk

Not Reported

Court Reporter

Attorney(s) Present for Plaintiff(s):

None Present

Attorney(s) Present for Defendant(s):

None Present

**Proceedings: Order DISMISSING Plaintiff's Complaint for Failure to Prosecute (IN CHAMBERS)**

On May 1, 2023, pro se Plaintiff Marlene Finander ("Plaintiff") filed a complaint against Moreno Valley Unified District and Does 1 through X. ("Complaint," Dkt. No. 1.) On May 1, 2023, Plaintiff filed a request to allow her to e-file. (Dkt. No. 4.) On July 31, 2023, Plaintiff filed an application to amend the complaint to add the names of two defendants. (Dkt. No. 9.) On August 9, 2023, Plaintiff filed a motion to amend to clarify her Application. (Dkt. No. 15.)

On August 15, 2023, the Court (1) denied Plaintiff's request to e-file; (2) granted Plaintiff's application and motion to amend; (3) ordered Plaintiff to file her first amended complaint by Tuesday, August 22, 2023; and (4) ordered Plaintiff to comply with Federal Rule of Civil Procedure 4 and serve defendants by September 25, 2023. (Dkt. No. 17.) The Court warned Plaintiff that failure to comply with the order may result in dismissal of this action. (*Id.*)

On August 17, 2023, Plaintiff filed a motion to amend FAC to name two defendants. ("Mtn to Amend," Dkt. No. 18.)

On September 18, 2023, Plaintiff filed a request to update/correct the case docket to reflect the Court's findings in its August 15, 2023 order. ("Request 1," Dkt. No. 23.)

On October 3, 2023, Plaintiff filed a request to rule on all pending matters (“Request 2,” Dkt. No. 27.) On October 11, 2023, the Court denied the Mtn to Amend as moot, denied Request 1, and denied Request 2 as moot. (Dkt. No. 31.) The Court ordered Plaintiff to properly file her FAC with the Court and properly serve defendants no later than October 16, 2023. (Id.)

As of the date of this order, Plaintiff has not properly filed her first amended complaint with the Court, after she was given two opportunities to do so. (See Dkt. No. 17, 31.) Plaintiff has also failed to properly serve Defendants pursuant to F.R.C.P. 4. The Court has ordered Plaintiff on multiple occasions to remedy the filing deficiencies and warned Plaintiff that failure to comply with the Court’s orders may result in a dismissal of this action. (Dkt. Nos. 17, 31.)

Federal Rule of Civil Procedure 41(b) grants the Court authority to sua sponte dismiss actions for failure to prosecute or failure to comply with court orders. See Fed. R. Civ. P. 41(b); Wolff v. California, 318 F.R.D. 627, 630 (C.D. Cal. 2016). Plaintiffs must prosecute their cases with “reasonable diligence” to avoid dismissal pursuant to Rule 41(b). Anderson v. Air W., Inc., 542 F.2d 522, 524 (9th Cir. 1976). Plaintiff has failed to comply with the Court’s orders, thus, the Court finds that Plaintiff has failed to prosecute this case with reasonable diligence and that dismissal is therefore appropriate.

Accordingly, the Court **DISMISSES** Plaintiff’s action for failure to prosecute and **DIRECTS** the Clerk to strike Dkt. Nos. 33 and 37 and close the case.

**IT IS SO ORDERED.**